

# SENATE BILL REPORT

## SB 5780

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As Reported By Senate Committee On:  
Consumer Protection & Housing, February 23, 2007

**Title:** An act relating to the preservation of manufactured/mobile home communities.

**Brief Description:** Preserving manufactured/mobile home communities.

**Sponsors:** Senators Eide, Kastama, Kauffman, Kilmer, Jacobsen, Rockefeller and Rasmussen.

**Brief History:**

**Committee Activity:** Consumer Protection & Housing: 2/13/07, 2/23/07 [DPS-WM].

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### SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

**Majority Report:** That Substitute Senate Bill No. 5780 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Haugen, Jacobsen, Kilmer and Tom.

**Staff:** Alison Mendiola (786-7483)

**Background:** In 1993, RCW 59.23 was enacted which provides tenant of manufactured/mobile home parks with right of first refusal. If a qualified tenant organization gives written notice to their mobile home park owner that they have a present and continuing desire to purchase the park, the park must then only be sold to the tenant organization, with a few exceptions.

In 2000, the State Supreme Court held that this right of first refusal constituted an unconstitutional taking of the park owner's property, rendering Chapter 59.23 RCW invalid. *Manufactured Housing Communities of Washington v. State*, 142 Wash.2d 347.

**Summary of Bill:** It is the intent of the Legislature to encourage and facilitate the preservation of existing manufactured/mobile home communities in the event of voluntary sales.

"Notice of Sale" Requirement: A landlord selling a community must file a notice of sale within 14 days of advertisement of the sale and 90 days before the sale occurs. The notice must include a fair market value assessment, disclosures, income, and expenses of the park operation, and a description of an acceptable offer which the landlord has already received or for which the landlord would sell the park..

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90 Day Requirement: Within the first 90 days after a notice of sale has been delivered, a landlord may only sell a community to: (1) a tenant organization or an organization representing the tenants through a qualified sale; (2) a tenant organization or an organization representing the tenants through good faith negotiations; or (3) a local government or housing authority which is exercising its right of first refusal.

- 1) *Qualified Sale of a Manufactured/Mobile Home Community:* Sales to a qualified tenant organization or an organization representing tenants at fair market value are called "qualified sales" and are exempt from the real estate excise tax (RCW 82.45). At any point during ownership, landlords may file a "notice of intent to pursue a qualified sale" with the Office of Manufactured Housing (OMH) within the Department of Community Trade and Economic Development. They may also rescind that notice at any time before an actual "notice of sale" is filed.

Under a Qualified Sale: Landlords must offer the property to the tenant organization or organization representing tenants at fair market value for 90 days and allow that group 12 months to close the sale. Tenants must notify the landlord of their intent to purchase the property within the 90 day time period allowed.

- 2) *Required Good Faith Negotiations:* If a tenant organization or an organization representing the tenants notifies a landlord of its intent to purchase a community within the first 90 days after a notice of sale has been delivered, the landlord must negotiate with the organization in good faith.
- 3) *Housing Authority/Local Government Right of First Refusal:* A Housing Authority or a Local Government has the right to purchase a community if it: (1) presents to the landlord an equivalent offer to the "acceptable offer" contained in notice of sale within 90 days after the delivery of the notice of sale; and (2) closes on the purchase within 180 days after the delivery of the notice of sale. The Housing Authority and Local Government right of first refusal does not apply to property transferred by a qualified sale of a manufactured/mobile home community, a government taking by eminent domain, a forced sale due to foreclosure, or a sale to a partner in the operation or heir of the landlord.

Violation of Chapter: A landlord who violates this chapter is liable to the tenants of the community for an amount equal to 10 percent of the gain realized from sale. Violation of the chapter is also a violation of the Consumer Protection Act.

Office of Manufactured Housing: The name of the "Office of Mobile Home Affairs" is changed to the "Office of Manufactured Housing." This office must:

- create templates for all notices and forms;
- receive and record all related documents; and
- produce an annual report on sales of communities including information on communities sold to tenants or representative organizations.

If any provision of this act is held invalid, the remainder of the act is not affected.

Right of First Refusal (Chapter 59.23) is repealed.

**EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Consumer Protection & Housing):** The language of the underlying bill is struck. A qualified sale of a manufactured/mobile home community is exempt from real estate excise tax. Right of First Refusal (Chapter 59.23) is repealed.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Two hundred thousand households reside in mobile home parks throughout Washington. This bill is about preserving affordable housing, and often the residents are seniors or disabled. The lawsuit in 2000 was a 5 to 4 decision. Washington is not the only state to provide incentives for preserving affordable housing. Preservation also meets the goals of the Growth Management Act. Therefore, preserving mobile home parks should be an important goal of the Legislature. Often park tenants have nowhere to move their home (and if they do it's costly), and even demolishing the home is costly. There is willingness to work out some language.

CON: What is the incentive for the seller? What buyer is going to wait around for 90 days to know if any offer is accepted? Often a mobile home park is not the best use of the property. The provisions regarding selling to tenants isn't exactly voluntary so this still amounts to what could be interpreted as an unconstitutional taking. The definition of fair market value needs to be worked to include highest and best value of property under existing or re-zoned property. What if tenants buy the park and then turn around and sell it for a huge profit? It's wrong to burden a small portion of the population with satisfying the affordable housing needs of the state.

**Persons Testifying:** PRO: Senator Eide, prime sponsor; Ishbel Dickens, Columbia Legal Services; Nick Federici, Washington Low-Income Housing Alliance; Fred Jones, Ken Newton, Mobile Home Owners Association; Russell Carter, Mariner Mobile Home Association; Richard Baltazar, Mariner Village.

CON: C. Dusoni, Mobile Home Project; Bob Sternoff, Sandra Allen, citizens; Judy Young, Ken Spencer, John Woodring, Manufactured Housing Communities of Washington; Walt Olson, Olson LLP.